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THE SUPREME COURT OF THE UNITED STATES
October Term, 1980

IN RE: REGINALD WASHINGTON
Bankrupt

MYRON E. WASSERMAN
Trustee

Petitioner

vs.

DIANE MARGARET
WASHINGTON aka
JOANN WASHINGTON

Respondent

CASE NO. 80-410

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Now comes respondent by and through her attorney and pursuant to Rule 46 of the Rules of this Court, motion is hereby made that respondent be allowed to proceed in forma pauperis.

Respondent's affidavit is attached to this motion.

EDWIN H. JACOBS
Attorney for Respondent
The Darwood Building
23360 Chagrin Blvd.
Beachwood, Ohio 44122
Phone 216 464 3363

CERTIFICATE OF SERVICE

A true copy of the foregoing, with affidavit, was sent this 1st day of December, 1980 to Richard B. Ginley Esq. at 1510 Standard Building, Cleveland, Ohio 44113.

EDWIN H. JACOBS

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AFFIDAVIT OF RESPONDENT IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS.

I, DIANE MARGARET WASHINGTON aka JOANN WASHINGTON, being first duly sworn, depose and say that I am the respondent in the above-entitled case; that in support of my motion to proceed without being required to prepay fees, costs, or give security therefor, I state because of my poverty I am unable to pay the costs in said proceeding or to give security or pay printing costs therefor; that I beleive that I am entitled to respond to the issues raised by petitioner and or to do what ever else that may be required to protect my right in these proceedings.

I further swear that the proceedings below, starting with the Federal District Court for the Northern District of Ohio through this date have proceeded in forma pauperis.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the costs of proceeding in this matter are true.

1. Are you presently employed? ~~No~~ Yes

a. If the answer is yes, state the amount of your salary or wages per week or month, the name and address of your employer, and how long you have been so employed.

COMMISION $50.00 PER WEEK. Ruby's Hair Fashion 62700 Buckeye Cleveland, Ohio 44128 DATE EMPLOYED 10/24/80

b. State the date of your last employment, the wages or salary received and the length of said employment.

APRIL, 1977 $165.00 PER WEEK, SEVEN YEARS, TOP VENDING, 14511 SHERNAC CLEVELAND, OHIO 44105

2. Have you received within the last 12 months any income from a business, profession, or other form of self-employment, or in the form of rent payments, interest, dividends or other source? NO

a. If the answer is yes, describe each source of income and state the amount received in the last 12 months NONE

3. Do you own any cash or checking or savings account? YES

a. If the answer is yes state the total value of the items owned. $12.00

4. Do you own any real estate, stocks, bonds, notes,

automobiles, or other valuable property (excluding any ordinary household furnishings and clothing)?

NO

a. If the answer is yes, describe the property and state its approximate value. NONE

5. List the persons who are dependent on you for support and state your relationship to those persons.

MYSELF

I UNDERSTAND THAT A FALSE STATEMENT OR ANSWER TO ANY QUESTIONS IN THIS AFFIDAVIT WILL SUBJECT ME TO PENALTIES FOR PERJURY.

Diane Margaret Washington

DIANE MARGARET WASHINGTON aka
JOANN WASHINGTON

SUBSCRIBED and sworn to before me this 30th day of November, 1980.

Edwin H. Jacobs

EDWIN H. JACOBS ESQ.

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BRIEF OF RESPONDENT IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

Notwithstanding whether or not the issue raised is lis pendens or comity, as both issues were reasonably set forth in the opinion of the Court of Appeals for the Sixth Circut by Judge Peck without dissent, The Supreme Court of the United States, on numerous occasions in the past, has determined the jurisdictional priorities of the judicial system as for example in Donovan v. Dallas, 377 U.S. 408, rehearing denied, 379 U.S. 871 (1964);Princess Lida of Thurn and Taxis v. Thompson, 305 U.S. 456 (1939);Farmers' Loan and Trust Co. v. Lake Street Elevated R. Co., 177 U.S. 51 (1900) AS SET FORTH IN JUDGE PECKS DECESION and their are many moressuch cases.

Petitioner is now requesting this Court to review a long established policy, obviously to change that policy in terms of the bankruptcy laws as they were constituted prior to November 1978. Federal District Courts have no special jurisdiction over controversies at law or in equity and it would certainly follow that the Bankruptcy Courts have no such special jurisdiction nor does this special right being requested by petitioner appear in the old or new Bankruptcy Act. Petitioner is in fact requesting this Court to affirm

that bankruptcy proceedings DO, by virtue of their maintenance terminate an ordinary action already pending in a state court and said bankruptcy proceeding is to deprive the state court of jurisdiction even where the state court has aquired jurisdiction over the subject matter and the parties before the the petition in bankruptcy was filed. Certainly, as pointed out in Judge Peck's decision, at pages A6 and A7 of petitioners brief, any view of Ohio law shows without question that the state court obtains jurisdiction over the property of the parties contained within the state, in a domestic relations contest, otherwise the court could not effectuate its mandate as either spouse is in aposition to defraud the other and the court could do nothing.

Petitioner is asking this Court to fly in the face of stare decisis by reversing itself and using as a vehicle the Bankruptcy Act as constituted prior to November 1978 in relation to a state domestic relations contest in affect asking this Court to affirm the proposition that where a state court, or in fact any court, that has before it a contest as to certain property and a petition in bankruptcy is filed at a later date then by virtue of said later filing the original court must give up that property to the bankruptcy court;.this all to be done prior to the first court making any determination. The implications are obvious and terrible to contemplate.

For these reasons as well as those stated in the opinion of the United States Court of Appeals for the Sixth Circut, a Writ of Certiorari should NOT issue.

Respecfully submitted,

EDWIN H. JACOBS
Counsel for Respondent
23360 Chagrin Blvd.
Beachwood, Ohio 44122
(216) 464 3363

CERTIFICATE OF SERVICE

A true copy of the foregoing Brief in Opposition to Petition for Writ of Certiorari was mailed this 1st day of December, 1980 to Richard B. Ginley at 1510 Standard Building, Cleveland, Ohio 44113

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